

REMARKS

Claims 1-7, 9, 11-24, 26, and 29-31 were pending in the present application. Claims 11, 16-19, and 27-28 were withdrawn from consideration. By virtue of this response, claim 1 has been amended and new claims 33 and 34 have been added.

Applicant believes that claim 27 and 28 should be reinstated in view of the above amendment.

Accordingly, applicant believes that claims 1-7, 9, 11-24, 26-31, and 33-34 are currently under consideration. Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented. No new matter has been added.

Rejections under 35 USC §112

Claims 1-7, 9, 12-15, 20-24, 26 and 29-31 are rejected under 35 USC §112, first paragraph, as allegedly failing to comply with the written description requirement.

In response, applicant has amended claim 1 to recite treating in (a) and exposing in (b), consistent with the specification as filed, and overcoming any alleged ambiguity caused by the previous language.

Rejections under 35 USC §103 (a) - I

Claims 1-5, 7-10, 12, 20-24, 26 and 29-31 are rejected under 35 USC §103 (a) as allegedly being unpatentable over Subramanian (US 5,643,580) in view of Kunz et al (US 6,733,847 B2), optionally further in view of Spence et al (US 6,106,659), or optionally Inagaki et al (US 2002/0098296).

In response, applicant has amended claim 1 to include that the carrier gas in (a) is a noble gas, that the surface-modifying group of (c) has a carboxylic acid group, that (c) is no longer optional, and that the presence of a carboxylic acid group results in improving cell attachment and proliferation on the substrate.

Neither Subramanian nor Kunz, alone or in combination teach use of a noble gas at atmospheric pressure. In addition, neither reference teaches improving cell attachment and proliferation on the substrate by using a surface-modifying group having a carboxylic

acid. Furthermore, Kunz teaches away from carboxylic acid termini in the substrate-modifying groups, advocating amines, thioethers or thiols (line 60-61, col. 1). Neither Subramanian, Kunz, nor the third and fourth references Spence and Yializisteach teach the merit of having substrate-modifying groups with carboxylic acid groups so as to result in improved cell attachment and proliferation on the substrate for those substrate-modifying groups that do not bind an agent.

Rejections under 35 USC 103(a) - II

Claims 13-15 are rejected under 35 USC 103(a) as allegedly being unpatentable over Subramanian ('580) in view of Kunz et al (and optionally Spence et al or Inagaki et al) as applied to claims 1-5, 7-10, 12, 20-24, 26 and 29-31 above, and further in view of Valentin (US 6,428,579) or Clapper (US 5,744,515).

In response, applicant has amended claim 1, and for reasons articulated in the previous arguments under 35 USC 103(a), in view particularly of the amendment providing for substrate-modifying groups having carboxylic acid termini, has rendered this rejection moot.

Rejections under 35 USC 103(a) - III

Claim 6 is rejected under 35 USC 103(a) as allegedly being unpatentable over Subramanian ('580), in view of Kunz et al (and optionally Spence et al or Inagaki et al), as applied to claims 1-5, 7-10, 12, 20-24, 26 and 29-31 above, and further in view of Ikeda et al (US 4,743,258) or Clapper.

In response, amendments to claim 1 obviate a need to specifically address the rejection.

Rejections under Non-Statutory Double Patenting -I

Claims 1-7, 9, 12, 21-23, 26 and 29-31 are rejected under the doctrine of obvious-type double patenting as allegedly being unpatentable over claims 1-8 and 11-17 of US Patent No. 6,159, 531 (Dang et al), in view of Kunz et al or Spence et al ('659), as discussed in section 4 of the office action, and further in view Ikeda et al ('258) or Clapper in claims 3-6, as discussed in section 7 of the office action.

In response, applicant will submit a terminal disclaimer upon the allowance of claims in this application.

Rejections under Non-Statutory Double Patenting -II

Claims 13-15 and 20 are rejected under the doctrine of obvious-type double patenting as allegedly being unpatentable over claims 1-8 and 11-17 of US Patent No. 6,159,531 in view of Kunz et al or Spencer et al ('659), and further in view of Ikeda et al ('258) or Clapper in claims 3-6, as applied in section 9 of the office action, and further in view of Valentini (US 6,428,579) or Clapper (US 5,744,515), as discussed in section 6 of the office action.

In response, applicant will submit a terminal disclaimer upon allowance of claims in the pending application.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections and pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the appropriate fee and/or petition is not filed herewith and the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with this filing to Deposit Account No. 50-3973 referencing Attorney Docket No. NFCSNZ01200. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S. Bagade', is written over a horizontal line.

Sanjay S. Bagade
Registration No. 42,280

Customer No. 40518
Levine Bagade Han LLP
2483 East Bayshore Road, Suite 100
Palo Alto, CA 94303
Direct: (650) 242-4212
Fax: (650) 284-2180